



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1994

Mr. Robert H. Power
Power & Deatherage
1311 West Irving Boulevard
Irving, Texas 75061-7220

OR94-021

Dear Mr. Power:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.¹ Your request was assigned ID# 21954.

The City of Grapevine (the "city"), which you represent, has received a request for any records of communications between the city and the Advisory Council on Historic Preservation, the National Trust for Historic Preservation, or any agency of the executive or legislative branch of the United States government. You claim that sections 552.101, 552.103(a), and 552.107 of the Government Code exempt from required public disclosure the correspondence between the co-counsel for the city and the National Trust for Historic Preservation.

Section 552.103(a) excepts information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

¹We note that the Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

Information must relate to litigation that is pending or reasonably anticipated to be excepted under section 552.103(a). *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

You state that the city is currently a party to civil litigation entitled *City of Grapevine v. Department of Transportation*, No. 92-1151 (D.C. Circuit), and claim that release of the requested information "would impair substantially the City of Grapevine's litigation interests."² You have demonstrated that the communications at issue relate to pending litigation; accordingly, you may withhold the communications under section 552.103(a) of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LBC/rho

Ref.: ID# 21954

Enclosures: Submitted documents

cc: Mr. Michael Schneiderman
Hopkins & Sutter
Three First National Plaza
Chicago, Illinois 60602
(w/o enclosures)

²The city submitted a six-page brief to this office supporting its claim.